

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

POOPER TROOPER LLC, a Washington
limited liability company,

Plaintiff,

v.

SCOOP TROOP, LLC, a Washington limited
liability company, and SCOOP TROOP
LAWN CARE, LLC, a Washington limited
liability company,

Defendants.

Case No.: 2:23-cv-01109

COMPLAINT FOR: (1) TRADEMARK
INFRINGEMENT; (2) FALSE
DESIGNATION OF ORIGIN, FALSE
ADVERTISING, AND UNFAIR
COMPETITION; (3) CONSUMER
PROTECTION VIOLATION, RCW
19.86; AND (4) TORTIOUS
INTERFERENCE

Plaintiff Pooper Trooper LLC (“Pooper Trooper”) alleges the following causes of action
against Defendants Scoop Troop, LLC, and Scoop Troop Lawn Care, LLC (hereafter,
collectively, “Scoop Troop” or “Defendants”):

I. PARTIES

1. Plaintiff Pooper Trooper is a limited liability company duly organized and
existing under the laws of the State of Washington with its principal place of business at 4208
198th Street SW, Suite 105, Lynnwood, WA 98036. Pooper Trooper is in good standing with

1 the Washington Secretary of State and has done all things necessary and proper to bring this
2 lawsuit.

3 2. Defendant Scoop Troop, LLC (“Scoop Troop”) is a Washington limited liability
4 company with its principal place of business at 2818 North Sullivan Road, Suite 1009, Spokane
5 Valley, WA 99216. On information and belief, Scoop Troop engages in the activities alleged
6 herein, including making offers relating to, and marketing and promoting, Scoop Troop’s
7 services in Idaho and in Washington State, via its website, social media, and direct sales and
8 marketing, through trade shows.

10 3. Defendant Scoop Troop Lawn Care, LLC (“Scoop Troop Lawn”) is a
11 Washington limited liability company with its principal place of business at 10911 East 48th
12 Avenue, Spokane Valley, WA 99206. On information and belief, Scoop Troop Lawn engages
13 in the activities alleged herein, including making offers relating to, and marketing and
14 promoting, Scoop Troop Lawn’s products and services on a nationwide basis, in Idaho and in
15 Washington State, via its website, social media, and direct sales and marketing, through trade
16 shows.

18 II. JURISDICTION AND VENUE

19 4. Pooper Trooper realleges and incorporates by reference all of the preceding
20 paragraphs of this complaint as if fully set forth herein.

21 5. This Court has original jurisdiction over Count I and II under 15 U.S.C.
22 §1121(a) (action arising under the Lanham Act) and 28 U.S.C. §§1331, 1338 (federal question)
23 in that this case arises under the Trademark Laws of the United States, 15 U.S.C. §1051 *et seq.*
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1 6. This Court has jurisdiction over Count III and Count IV under 28 U.S.C.
2 §1338(b) in accordance with the principles of pendant jurisdiction in that said claims are joined
3 with substantial and related claims under the Trademark Laws of the United States.

4 7. Personal jurisdiction in this district is proper because Defendants are
5 Washington limited liability companies, headquartered in Washington, and that engage in
6 continuous commercial operations with Washington State, including but not limited to
7 marketing and providing pet waste removal services throughout Washington, to Washington
8 residents and businesses. On information and belief, Defendants willfully continued to engage
9 in the activities below in Washington after being provided notice to cease and desist such
10 activities.
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12 8. Venue in this District is proper under 28 U.S.C. § 1391(b).
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14 **III. POOPER TROOPER'S TRADEMARK RIGHTS**

15 9. Pooper Trooper realleges and incorporates by reference all of the preceding
16 paragraphs of this complaint as if fully set forth herein.

17 10. Pooper Trooper LLC, is a Washington State limited liability company that has
18 been using the name POOPER TROOPER since as early as 1989, has been marketing and
19 selling pet waste removal services and products under the POOPER TROOPER Mark since
20 2003, and has provided pet waste removal services since that time on a continuous and
21 uninterrupted basis. Pooper Trooper is the owner of intellectual property rights associated with
22 a family of POOPER TROOPER trademarks, including without limitation the following U.S.
23 federal trademark registrations:
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1 2	POOPER TROOPER Reg. No: 5522236 ("236 Mark")	IC 037: Pet waste removal services	Registered: July 24, 2018 First Use: At least as of April 1, 2003
3 4 5	POOPER TROOPER Reg. No: 6884592 ("592 Mark")	IC 035: On-line retail store services featuring pet supplies and pet accessories	Registered: October 25, 2022 First Use: At least as of November 12, 2007
6 7 8 9	POOP UNIVERSITY Reg. No: 6172857	IC 041: Providing training in the fields of pet waste removal services, consulting in business management, and organization and promotion in the field of pet waste removal services.	Registered: October 13, 2020 First Use: At least as of April 1, 2013

10 (The above-referenced POOPER TROOPER '236 Mark and '592 Mark" trademark rights, the
11 "Pooper Trooper Marks.")

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13 11. Pooper Trooper timely filed a Combined Section 8 & 15 Declaration in relation
14 to the '236 Mark on July 24, 2023, prior to the filing of this action, and claims continuous use
15 of the '236 Mark for five years and incontestable rights in the '236 Mark.

16 12. Pooper Trooper is also the owner of common-law rights, including
17 geographically-based rights, stemming from its continuous and substantially exclusive use of
18 the POOPER TROOPER Marks in commerce for over two decades.

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20 13. Pooper Trooper provides pet waste removal services to commercial, HOA, and
21 residential customers in Washington State (the "Pooper Trooper Services"). Pooper Trooper
22 markets and sells its services in a variety of ways, including online at www.poopertrooper.com,
23 on multiple internet-based social media sites such as Facebook, Twitter, NextDoor, Google
24 Ads, and Instagram, and in advertising media.

1 14. Pooper Trooper also offers for sale numerous products relating to pet waste
2 removal (the “Pooper Trooper Products”) and sells these products nationwide online via its
3 website at www.poopertrooper.com. Pooper Trooper’s use of its POOPER TROOPER Marks
4 and domain name has conditioned Internet users nationwide to find Pooper Trooper and
5 POOPER TROOPER products on the internet.

6 15. Pooper Trooper has invested substantial time, money, and effort to develop, use,
7 advertise, and promote the POOPER TROOPER Mark. Pooper Trooper markets, promotes, and
8 provides (1) Pooper Trooper Services in Washington in association with the ‘236 Mark; and (2)
9 Pooper Trooper products throughout the United States in association with its ‘592 Mark,
10 including through use of its www.poopertrooper.com website, social media, and direct sales.
11 Pooper Trooper uses the POOPER TROOPER Marks to identify Pooper Trooper services and
12 products, distinguish its products from the products of others, and identify Pooper Trooper as
13 the source of its branded products. As a result, the POOPER TROOPER Marks, as well as the
14 related tradenames and domain name, have become valuable assets of Pooper Trooper, symbols
15 of its goodwill to the general public, and an integral and indispensable part of Pooper Trooper’s
16 expanding business. To this end, Pooper Trooper carefully safeguards its intellectual property
17 rights.
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20 IV. DEFENDANTS’ INFRINGING ACTIVITIES

21 16. Pooper Trooper realleges and incorporates by reference all of the preceding
22 paragraphs of this complaint as if fully set forth herein.

23 17. Scoop Troop, LLC, was formed in Washington September 9, 2020, for “Pet
24 Waste Removal” services. Scoop Troop Lawn Care, LLC, was formed on October 26, 2022.
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1 18. Scoop Troop provides services that are identical to Pooper Trooper Services
2 using the name “Scoop Troop” (the “SCOOP TROOP mark”).

3 19. The Scoop Troop website, <https://scooptroop.com>, states that Scoop Troop
4 provides “Dog Waste Removal Services” including “Five Star Pooper Scooper Service” in
5 Spokane, Seattle, and Northern Idaho.

6 20. Scoop Trooper applied for a federal trademark application for “Scoop Troop,”
7 describing its services as “Pet waste removal services,” with a first use as of September 9,
8 2020. The described services are identical to the described services of the Pooper Trooper ‘236
9 Mark.

10 21. The USPTO refused registration of the “Scoop Troop” trademark based upon a
11 likelihood of confusion with another registered trademark, “Poop Scoop Troopers.” The
12 Examiner’s initial and final refusals determined in substance, among other things, that (1) the
13 terms SCOOP TROOP was highly similar in sound and appearance to the terms SCOOP
14 TROOPERS in registrant’s POOP SCOOP TROOPERS mark; (2) “troop” and “troopers” may
15 be confusingly similar where similar terms or phrases or similar parts of terms or phrases
16 appear in the compared marks and create a similar overall commercial impression; (3) overall,
17 the marks provide a highly similar commercial impression, “that of a troop ready to scoop pet
18 waste;” (4) the services were identical; and (5) where the services are identical or virtually
19 identical, the degree of similarity between the marks required to support a finding that
20 confusion is likely declines.

21 22. The USPTO Examiner emphasized the impression created by the word “troop:”
22 “[I]t is well settled that marks may be confusingly similar in appearance where similar terms or
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1 phrases or similar parts of terms or phrases appear in the compared marks and create a similar
2 overall commercial impression.”

3 23. Scoop Troop abandoned its federal trademark application. Scoop Troop has
4 nonetheless continued to provide pet waste removal services using the SCOOP TROOP mark,
5 in apparent disregard of the USPTO’s statements as to likelihood of confusion with a third-
6 party registered trademark
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8 24. On April 14, 2023, after learning of Scoop Troop’s wrongful actions, Pooper
9 Trooper by letter demanded that Scoop Troop cease and desist from its infringement of the
10 POOPER TROOPER Marks.

11 25. On May 11, 2023, counsel for Scoop Troop rejected Pooper Trooper’s
12 contentions and denied any infringement.

13 26. Scoop Troop has continued to use its infringing SCOOP TROOP mark despite
14 being advised of Pooper Trooper’s priority rights, and the priority trademark rights of others,
15 and despite being advised that its ongoing use is willful and may be subject to additional
16 remedies, including additional damages and attorney’s fees.
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18 27. The acts of Scoop Troop have caused and, unless restrained by this Court, will
19 continue to cause serious and irreparable harm to Pooper Trooper and to the goodwill
20 associated with its POOPER TROOPER Marks. Scoop Troop has and will continue to unjustly
21 benefit—at Pooper Trooper’s expense—from profits derived from the services sold in
22 association with the infringing SCOOP TROOP mark.
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24 28. The impact of Scoop Troop’s infringement is particularly damaging in the
25 context of Internet marketing and sales. Scoop Troop’s unauthorized use of the infringing Mark
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1 allows Scoop Troop to misdirect the public from Pooper Trooper to Scoop Troop. In doing so,
2 Scoop Troop unfairly competes with Pooper Trooper or otherwise unjustly benefits from Scoop
3 Troop's wrongful actions.

4 29. Scoop Troop has no license or other authorization from Pooper Trooper.

5 30. Scoop Troop's ongoing wrongful actions are done with knowledge and willful
6 disregard of Pooper Trooper's rights.
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8 **V. CAUSES OF ACTION**

9 **COUNT I - FEDERAL TRADEMARK INFRINGEMENT (15 U.S.C. § 1114)**

10 31. Pooper Trooper realleges and incorporates by reference all of the preceding
11 paragraphs of this complaint as if fully set forth herein.

12 32. Scoop Troop's use of the SCOOP TROOP mark on or in connection with the
13 marketing and sale of Scoop Troop's Products, particularly in the same channels of trade and
14 same geographic proximity, has caused, and is likely to cause confusion, mistake, or deception
15 of the public as to the source of these products. Scoop Troops' actions have caused damage to
16 Plaintiff, including to its valuable goodwill in respect to the POOPER TROOPER Marks.
17 Pooper Trooper will suffer irreparable harm should infringement be allowed to continue to the
18 detriment of its trade reputation and goodwill.
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20 33. Scoop Troop has violated the trademark rights of Pooper Trooper under the
21 Trademark Act, thereby giving rise to a cause of action under 15 U.S.C. § 1114.
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23 34. Scoop Troop's actions have been willful, intentional, and in disregard of and
24 with indifference to the rights of Pooper Trooper.
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**COUNT II: FALSE DESIGNATION OF ORIGIN, FALSE ADVERTISING AND
UNFAIR COMPETITION UNDER LANHAM ACT (15 U.S.C. §1125(A))**

35. Pooper Trooper realleges and incorporates by reference all of the preceding paragraphs of this complaint as if fully set forth herein.

36. Scoop Troop's use of the SCOOP TROOP mark on or in connection with the marketing and sale of Scoop Troop's Products, particularly in the same channels of trade and same geographic proximity, has caused, and is likely to cause confusion, mistake, or deception of the public as to the source of these products. Scoop Troop's actions have caused damage to Pooper Trooper, including to its reputation and valuable goodwill in respect to the POOPER TROOPER Marks. Pooper Trooper will suffer irreparable harm should infringement be allowed to continue.

37. Scoop Troop's actions have been willful and intentional, and in disregard to the rights of Pooper Trooper.

38. Scoop Troop has violated the trademark rights of Pooper Trooper under the Trademark Act, thereby giving rise to a cause of action under 15 U.S.C. § 1114.

**COUNT III: WASHINGTON STATE UNFAIR COMPETITION AND CONSUMER
PROTECTION ACT (RCW 19.86)**

39. Pooper Trooper realleges and incorporates by reference all of the preceding paragraphs of this complaint as if fully set forth herein.

40. Scoop Troop's infringing use of its SCOOP TROOP mark on or in connection with the marketing and sale of infringing Scoop Troop services, particularly in the same channels of trade and same geographic proximity with Pooper Trooper, has caused, and is likely to cause confusion, mistake, or deception of the public as to the source of these services.

1 By engaging in this conduct, Scoop Troop has engaged in unfair and deceptive acts or practices
2 in the conduct of its trade and business. Scoop Troop's actions have affected and continue to
3 affect the public interest, and Scoop Troop has demonstrated a propensity for repetition of its
4 action by continued confusing use despite written requests to cease and desist.

5 41. Scoop Troop's deceptive acts or practices injured Pooper Trooper.

6 42. Scoop Troop's actions offend the public, are unethical, oppressive, and
7 unscrupulous, affecting trade and commerce now and in the future both within Washington
8 State and elsewhere.

9 43. A causal link exists between the deceptive act and the resulting injury. Pooper
10 Trooper has suffered damages relating to violation of the Consumer Protection Act RCW
11 19.86, an amount to be proven at trial.

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14 **COUNT IV: TORTIOUS INTERFERENCE WITH PROSPECTIVE**
15 **ECONOMIC ADVANTAGE**

16 44. Pooper Trooper realleges and incorporates by reference all of the preceding
17 paragraphs of this complaint as if fully set forth herein.

18 45. Pooper Trooper's right to obtain prospective customers constitutes a valid
19 business expectancy.

20 46. Scoop Troop had knowledge of Pooper Trooper's business expectancy,
21 particularly in Washington State for prospective pet waste removal customers.

22 47. Scoop Troop intentionally interfered with Pooper Trooper's business
23 expectancy. Scoop Troop knew that the interference was certain or substantially certain to
24 occur as a result of its actions and Pooper Trooper has suffered resulting damages in an amount
25 to be proven at trial.
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VI. PRAYER FOR RELIEF

WHEREFORE, Pooper Trooper requests the following alternative and cumulative relief against each Defendant:

- A. For an injunction restraining and enjoining each Defendant, and its agents, servants, employees, and all others in active concert or participation with them, as follows:
1. From further infringing Pooper Trooper's trademark rights;
 2. From the further use of Defendants' SCOOP TROOP mark in connection with pet waste removal services, including use in false and misleading advertising, marketing, websites, domains, and social media; and as service marks, trademarks, trade names, domain names or part thereof alone or in combination with other words symbols, styles, titles, or marks;
 3. From further acts of false advertising and unfair competition as alleged herein;
 4. An order that each Defendant deliver to Pooper Trooper for destruction all labels, signs, prints, packages, wrappers, receptacles, advertisements, signs, brochures, promotional materials, business forms, manuals, pamphlets, packages, containers and all other material bearing the SCOOP TROOP Mark, or any derivative, colorable imitation, or confusingly similar marks, together with all means for making or reproducing the same, pursuant to 15 U.S.C. Sec. 1118 and other applicable law; and
 5. An order that Defendants immediately assign or otherwise transfer to Pooper Trooper ownership of all domain names incorporating the term "scoop troop," "scoop troop," or any domain name confusingly similar thereto.
- B. For an award of damages suffered by Pooper Trooper, plus any revenues or profits earned by Defendants as a result of Defendants' trademark infringement, unfair competition and false advertising in an amount to be proven at trial.
- C. For an award of treble damages as alleged herein pursuant to 15 U.S.C. §1117(a) and RCW 19.86.060.

1 D. For an assessment of prejudgment interest and costs, and an award of attorney's
2 fees and litigation expenses and costs to the maximum extent allowed by law.

3 E. For such other and further relief as the Court deems proper.

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5 RESPECTFULLY SUBMITTED this 24th day of July, 2023.

6 BRACEPOINT LAW, P.S.

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